



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

Foulger *et al.*

Application No. 09/840,923

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Examiner: Kenneth Tang

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(formerly 2018.0060001)

For: **System and Method for Scheduling
Execution of Cross-Platform
Computer Processes**

Brief on Appeal Under 37 C.F.R. § 41.37

Mail Stop Appeal Brief - Patents

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

A Notice of Appeal from the final rejection of claims 27-44 was filed on January 17, 2007. Appellants hereby file one copy of this Appeal Brief, together with the required fee set forth in 37 C.F.R. § 41.20(b)(2).

It is not believed that extensions of time are required beyond those that may otherwise be provided for in documents accompanying this paper. However, if additional extensions of time are necessary to prevent abandonment of this application, then such extensions of time are hereby petitioned under 37 C.F.R. § 1.136(a), and any fees required therefor (including fees for net addition of claims) are hereby authorized to be charged to our Deposit Account No. 19-0036.

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Table of Contents

I.	Real Party In Interest (37 C.F.R. § 41.37(c)(1)(i))	3
II.	Related Appeals and Interferences (37 C.F.R. § 41.37(c)(1)(ii))	4
III.	Status of Claims (37 C.F.R. § 41.37(c)(1)(iii))	5
IV.	Status of Amendments (37 C.F.R. § 41.37(c)(1)(iv))	6
V.	Summary of Claimed Subject Matter (37 C.F.R. § 41.37(c)(1)(v))	7
VI.	Grounds of Rejection to be Reviewed on Appeal (37 C.F.R. § 41.37(c)(1)(vi))	9
	A. Ground 1	9
	B. Ground 2	9
	C. Ground 3	9
VII.	Argument (37 C.F.R. § 41.37(c)(1)(vii))	10
	A. Obviousness in View of KSR v. Teleflex	10
	B. The Cited References Do Not Teach Every Feature Recited in Independent Claims 27, 33, and 39 and Their Respective Dependent Claims	11
	1. Use of a Master Schedule Based on Notifications	12
	2. Notification Based on Installation	15
	3. Installation of a Program	16
	4. Summary of Arguments	18
	C. The Combination of Wu, Wookey, and Bowman Does Not Teach Every Feature Recited in Claims 30, 36, and 42	18
	D. The Combination of Wu, Wookey, and Bauchot Does Not Teach Every Feature Recited in Claims 31, 37, and 43	19
	E. Conclusion	20
VIII.	Claims Appendix (37 C.F.R. § 41.37(c)(1)(viii))	21
IX.	Evidence Appendix (37 C.F.R. § 41.37(c)(1)(ix))	27
X.	Related Proceedings Appendix (37 C.F.R. § 41.37(c)(1)(x))	28

I. Real Party In Interest (37 C.F.R. § 41.37(c)(1)(i))

The real party in interest in this appeal is Archeron Limited LLC, the assignee of record.

II. Related Appeals and Interferences (37 C.F.R. § 41.37(c)(1)(ii))

To the best of the knowledge of Appellants, Appellants' legal representative, and Appellants' assignee, there are no other appeals or interferences which will directly affect or be directly affected by or have a bearing on a decision by the Board of Patent Appeals and Interferences ("the Board") in the pending appeal.

III. Status of Claims (37 C.F.R. § 41.37(c)(1)(iii))

This application was filed as U.S. Application No. 09/840,923 on April 25, 2001, with 26 claims. In response to an Office Action mailed June 21, 2004, Appellants filed an Amendment and Reply on December 21, 2004, in which claims 1-26 were cancelled, and new claims 27-44 were added. A Final Office Action rejecting claims 27-44 was mailed on April 19, 2005, to which Appellants filed an Amendment and Reply on June 17, 2005, in which claims 27, 29, 33, 35, and 39-44 were amended. The Examiner subsequently mailed an Advisory Action on July 12, 2005.

Appellants filed a Request for Continuing Examination ("RCE") on July 19, 2005. No amendments were made in the RCE. An Office Action rejecting claims 27-44 was mailed September 9, 2005. In an Amendment and Reply filed February 9, 2006, Appellants amended claims 27, 33, and 39. A Notice of Non-Compliant Amendment was mailed April 14, 2006. On April 28, 2006, Appellants resubmitted the Amendment and Reply of February 9, 2006, with amended claims 27, 33, and 39. A Final Office Action ("Final Action") rejecting claims 27-44 was mailed July 19, 2006, to which Appellants filed an Amendment and Reply on October 19, 2006, in which claim 39 was amended. An Advisory Action was mailed December 14, 2006 ("Advisory Action"), in which the Examiner upheld the final rejection of claims 27-44.

Claims 27-44 are pending, are rejected, and are being appealed. A copy of the claims on appeal can be found in the attached Appendix as required under 37 C.F.R. § 41.37(c)(1)(viii).

IV. Status of Amendments (37 C.F.R. § 41.37(c)(1)(iv))

All amendments have been entered and claims 27-44 are pending.

In an Amendment and Reply filed October 19, 2006, Appellants amended claim 39.

Claims 27-44 were entered and rejected in the Advisory Action mailed December 14, 2006.

V. *Summary of Claimed Subject Matter (37 C.F.R. § 41.37(c)(1)(v))*

A concise explanation of the invention is provided below for each of the independent claims involved in the appeal. The explanation refers to the specification by page and line number, and to the drawings, if any, by reference characters.

For each independent claim involved in the appeal and for each dependent claim argued separately under the provisions of paragraph (c)(1)(vii), every means plus function and step plus function as permitted by 35 U.S.C. § 112, sixth paragraph, are identified. The structure, material, or acts described in the specification as corresponding to each claimed function are set forth with reference to the specification by page and line number, and to the drawings, if any, by reference characters.

Independent claim 27 recites a computer-based method of scheduling executions of programs on a plurality of computers. The method includes the steps of, at a scheduling third computer:

- (a) receiving a first notification from a first computer upon the installation of a first program on the first computer;
- (b) receiving a second notification from a second computer upon the installation of a second program on the second computer, wherein the operating system of the second computer is different from the operating system of the first computer;
- (c) updating a master schedule based on the first and the second notifications, wherein the updated master schedule indicates when the first program is to be executed on the first computer and when the second program is to be executed on the second computer; and
- (d) requesting the first computer to execute the first program and requesting the second computer to execute the second program according to the updated master schedule.

FIG. 1 of the Specification illustrates a plurality of client computers 102a-102n and a server computer 108 that communicate with each other via a computer communication network 104 in accordance with the subject matter claimed. As shown in FIG. 1, server 108 contains a Master Scheduling Engine 110 for scheduling processes 106a-106n to execute on

client computers 102a-102n. (Specification at p. 5, ll. 15-17.) Server 108 generates a master schedule 112 as shown in FIG. 2. (Specification at p. 5, ll. 21-24.)

Independent claim 27 is directed to a system 100 comprising a server 108 that is capable of scheduling, through the use of a master schedule, execution of programs or processes on a plurality of client computers. (Specification at p. 12, ll. 6-9.) At least two of the client computers are distinct from one another. (Specification at p. 7, ll. 12-13.) For example, client computer 102a comprises a different computer workstation or platform than the platform of client computer 102b. (Specification at p. 7, ll. 17-18.)

Server 108 receives a first notification from client computer 102a, upon installation of a process, stating that the process is installed and needs to be scheduled for execution, and also receives a second notification from an additional client computer, such as client computer 102b, that a second process is install and also needs to be scheduled for execution. (Specification at p. 11, ll. 7-10.) Each client computer 102 may have a different operating platform. (Specification at p. 10, ll. 26-29.)

Based on the first and second notifications, server 108 updates master schedule 112 with scheduling data regarding the first and second processes, and requests that the client computers execute the processes accordingly. (Specification at p. 11, ll. 15-18; and p. 12, ll. 6-7.)

Independent claims 33 and 39, as well as their dependent claims, find similar support to the above within the specification.

VI. *Grounds of Rejection to be Reviewed on Appeal (37 C.F.R. § 41.37(c)(1)(vi))*

A concise statement listing each ground of rejection presented for review follows.

A. *Ground 1*

Claims 27-29, 32-35, 38-41, and 44 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over U.S. Patent No. 6,275,575 B1 to Wu (“Wu”) in view of U.S. Patent No. 6,085,244 to Wookey (“Wookey”).

B. *Ground 2*

Claims 30, 36, and 42 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wu in view of Wookey and further in view of U.S. Patent No. 6,606,660 B1 to Bowman-Amuah (“Bowman”).

C. *Ground 3*

Claims 31, 37, and 43 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Wu in view of Wookey and further in view of U.S. Patent No. 5,970,062 to Bauchot (“Bauchot”).

VII. Argument (37 C.F.R. § 41.37(c)(1)(vii))

As noted above, independent claims 27, 33, and 39 stand finally rejected as being obvious under 35 U.S.C. § 103(a) over Wu in view of Wookey. Because the cited references do not, either alone or in combination, teach every feature of claims 27, 33, and 39, the rejection should be reconsidered and withdrawn. Because of recent changes in obviousness jurisprudence, Appellants begin their substantive arguments with a brief overview of the law that is relevant to the present case. Thereafter, Appellants address the Examiner's arguments with respect to independent claims 27, 33, and 39. Finally, Appellants address the remaining grounds of rejection.

A. *Obviousness in View of KSR v. Teleflex*

The recent Supreme Court decision in *KSR v. Teleflex*, 550 U.S. ___, 127 S. Ct. 1727 (2007) changed the parameters of the obviousness calculus when determining whether it is proper to combine prior art references that, in combination, teach or suggest each feature of the recited claims. The Board has recently issued a number of precedential decisions interpreting KSR, but the Office has yet to publicly promulgate its official guidance. However, KSR did not change certain fundamental concepts with respect to determining obviousness.

For example, the examiner still bears the burden of establishing a well-supported *prima facie* case of obviousness. (M.P.E.P. § 2143.) Further, a *prima facie* case of obviousness still requires that each and every element of the recited claims be present in the asserted references. (*Id.*; see *In re Piasecki*, 745 F.2d 1468, 1471-73, 223 U.S.Pat.Q. 785, 788 (Fed. Cir. 1984).) The Supreme Court did nothing to change this requirement. Indeed, in each of

the recently published precedential decisions, the Board made careful factual findings that found each recited limitation in the cited references, either explicitly or inherently. *See e.g.* *Ex parte Catan*, Appeal No. 2007-0820 (July 3, 2007). As explained more fully below, the Examiner in this case has not established a *prima facie* case of obviousness because Wu and Wookey do not, either alone or in combination, teach or suggest every feature of the recited independent claims 27, 33, and 39.

B. *The Cited References Do Not Teach Every Feature Recited in Independent Claims 27, 33, and 39 and Their Respective Dependent Claims*

The cited references do not teach or suggest, alone or in combination, each element of Appellants' independent claims 27, 33, and 39, as well as dependent claims 28, 29, 32, 34, 35, 38, 40, 41, and 44. As noted above, independent claim 27 recites the step of "*updating a master schedule based on the first and the second notifications, wherein the updated master schedule indicates when the first program is to be executed on the first computer and when the second program is to be executed on the second computer.*" Independent claims 33 and 39 recite similar features. This feature is not taught by the base reference Wu, and this deficiency is not overcome in Wookey.

The step of updating a master schedule is well described in the present specification. For example, when a process is installed in a client system, the client "sends a notification message to server 108 indicating the installed process needs to be scheduled for execution." (Specification at p. 11, ll.7-10.) The server receives this notification message, allowing a user to "construct [a] master schedule" by entering information such as shown in elements 220a - 220n of FIG. 2 corresponding to the notification message. (Specification at p. 11, ll. 15-21.) The updating of a master schedule for executing programs based on notifications is not taught or suggested in Wu or Wookey.

1. Use of a Master Schedule Based on Notifications

Wu teaches accessing a telephone conference system to coordinate and initiate a multi-point telephone conference meeting through the use of remote devices. (Wu at c. 2, ll. 44-47.) A coordinating subscriber inputs data such as contact information and duration for the proposed telephone conference. (Wu at c. 2, ll. 66 - c. 3, ll. 3.) The coordinating server device analyzes the conference data and the available schedule information for the selected participants and sends an invitation to those invited. (Wu at c. 3, ll. 3-10.) The invited participants' responses to the invitations are forwarded to the coordinating server device and the coordinator's terminal device. (Wu at c. 3, ll. 10-12.) The teleconference server coordinates audio communications with the plurality of invited participants when the telephone conference begins. (Wu at c. 5, ll. 63-66.)

Wu does not teach, at minimum, a master schedule. The Examiner equates a master schedule with a multi-point telephone conference coordinator. More specifically, the Examiner alleges that Wu teaches "scheduling with a master schedule (multi-point telephone conference coordinator), wherein the updated master schedule indicates when the first program is to be executed on the first computer and when the second program is to be executed on the second computer[.]" (Final Action at p. 7.) Wu does not teach this feature.

The Examiner relies on column 5, lines 45-63 of Wu which recites:

Coordinating server device 102 receives input from a coordinator associated with a proposed multi-point telephone conference. Software agents resident within the memory of coordinating server device 102 generate invitations for the requested participants using the input received from the coordinator and any associated participant information (i.e., attributes and schedules) which may be stored on the coordinating server device 102 or on an accessible remote server device (not shown). The generated invitations may be forwarded to the selected participants using a voice channel (wireless or land-based) and an IVRU, using a paging communication system, using SMS server 132 and the associated narrowband channel or via e-mail. The

coordinating server device 102 receives responses from the invited/-telephone conference participants and generates/stores a script which may be utilized at a future time to direct the operation of teleconference server 106 in conjunction with further instructions from the multi-point telephone conference coordinator.

Teleconference server 106 functions to coordinate audio communications with the plurality of invited participants when the telephone conference commences.

The multi-point telephone conference coordinator generates invitations for the requested telephone conference participants. (Wu at c. 5, ll. 48-52.) The invitations are generated based on input received from the coordinator and any associated participant information such as a participant's schedule stored on the coordinating server device and not from the participant's remote device. (Wu at c. 5, ll. 48-52.) However, the multi-point telephone conference coordinator is not a master schedule that (emphasis added) "indicates when [a] first **program** is to be executed on [a] first computer and when [a] second **program** is to be executed on [a] second computer," as recited in independent claim 27.

In contrast, "[w]henever a **process** is installed on a client 102 in the present invention, the client sends a notification message to server 108 indicating the installed **process** needs to be scheduled for execution." (Specification at p. 11, ll. 7-10 (emphasis added).) Based on the notifications received from the clients, the master schedule of the present invention identifies "all of the **processes** 106 installed in **and to be executed** on associated clients 102." (Specification at p. 8, ll. 23-24 (emphasis added).) Next, the "[m]aster schedule 112 links together the installed processes, associated with process identifiers in column 202, in such a way as to **define executing sequences for the cross-platform processes** 106." (Specification at p. 11, l. 29 - p. 12, l. 1; FIG. 2 (emphasis added).)

Accordingly, the multi-point telephone conference coordinator of Wu is different from the master schedule of the present invention because it does not perform the **process scheduling** function of the master schedule. Therefore, Wu does not teach or suggest scheduling with a master schedule in which the updated master schedule indicates when the

first program is to be executed on the first computer and when the second program is to be executed on the second computer. Moreover, as the Examiner agrees (Final Action at p. 5), Wu does not teach or suggest the use of notifications as the basis for updating the alleged master schedule of Wu.

These deficiencies, specifically the lack of a master schedule that indicates when programs are to be executed, as well as updates to the master schedule through the use of notifications, are not overcome by Wookey. The Examiner argues that “Wookey teaches a remote computer monitoring system in a master/slave . . . configuration for the monitored computers based on an indication/notification of installation.” (Final Action at p. 5.) The Examiner further argues that “[i]t would have been obvious . . . to include the remote computer monitoring system [of Wookey] in a master/slave configuration for the monitored computers based on an indication/notification of installation to the *existing master computer network scheduling system of Wu[.]*” (Final Action at p. 5 (emphasis added).)

Wookey does not have a “master computer network scheduling system,” so the Examiner, in forming the rejection, relies on the multi-point telephone conference coordinator of Wu to serve the function of the master schedule of independent claim 27. For the aforementioned reasons, the multi-point telephone conference coordinator of Wu is not a master schedule within the meaning of claim 27, and therefore neither Wu nor Wookey teaches or suggests a master schedule.

Furthermore, even if, *arguendo*, Wookey teaches or suggests notification, neither Wookey nor Wu teaches or suggests “updating a master schedule based on” such a notification as recited in independent claim 27. Nowhere does the Examiner indicate how the feature of “updating” based on the notification is taught or suggested by either Wu or Wookey, and Appellants submit that this feature is no to be found in either reference. Since

each and every element of independent claim 27 is not present in the cited references, the Examiner has not made a *prima facie* case of obviousness.

2. *Notification Based on Installation*

Independent claim 27, among other features, specifically recites (emphasis added) "receiving a first notification from a first computer *upon the installation* of a first program on the first computer" and "receiving a second notification from a second computer *upon the installation* of a second program on the second computer." As previously noted, the Examiner concedes that Wu fails to explicitly teach having a master schedule based on the notifications.

However, the Examiner alleges that it would be obvious to combine the features of Wookey with Wu because "Wookey teaches a remote computer monitoring system in a master/slave configuration for the monitored computers based on an indication/notification of installation[.]" (Final Action at p. 7). The Examiner relies on column 2, lines 58-64 of Wookey which recites (emphasis added):

The diagnostic results communicated at the periodic intervals include an indication of what components are *currently installed* on the monitored system. In order to determine if the hardware or software configuration has changed, the remote monitoring computer system compares the indication of *currently installed* components on each of the monitored computers with an indication of installed components received previously.

In the Wookey system, the monitored computers store system diagnostic information that result from the execution of diagnostic programs. (Wookey at c. 2, ll. 43-45.) Diagnostic results are then communicated periodically. (Wookey at c. 2, ll. 57-58.) If the hardware or software configuration of the monitored systems have changed, a diagnostic test will compare the indication of *currently installed* components on each of the monitored computers with an

indication of installed components received previously. (Wookey at c. 2, ll. 60-65.) Unlike Wookey, in the present application, "[w]henever a process is installed on a client 102 in the present application, the client sends a notification message to server 108 indicating the installed process needs to be scheduled for execution." (Specification at p. 11, ll. 7-10.) In Wookey, the system communicates diagnostic information on *currently installed* components while in the present application, the client sends a notification to communicate to server 108 *whenever a process is installed*. Since each and every element of independent claim 27 is not present in the cited references, the Examiner has not made a *prima facie* case of obviousness.

3. *Installation of a Program*

Additionally, the Examiner alleges that Wu teaches "installing (set up and initiation) of a first program on the first computer[.]" (Final Action at p. 7.) Wu does not teach this feature.

The Examiner relies on column 2, lines 43-52 of Wu which recites:

An object of the present invention is therefore to provide a method and system for remotely accessing a cross-platform telephone conference system for the purpose of coordinating and initiating multi-point telephone conference meetings. More specifically, the present invention utilizes intelligent agents and network based software application modules (i.e., contact lists, email, calendars, etc.) to facilitate the setup and initiation of telephone conference calls from locations remote to the telephone conference server and associated equipment.

However, setting up and initiating telephone conference calls from locations remote to the telephone conference server and associated equipment is not the same as installing a first program on the first computer. In fact, nothing in Wu even suggests that setting up and initiating a telephone conference call includes installing a program on a computer. Instead,

the Examiner equates installing a program to initiating a telephone conference call although it is clear that installing a program is different from initiating a telephone conference call.

The Examiner further states, at lines 4-5 of the Advisory Action, that "Wu teaches computer software programs such as on operating system, for example, on each computer (col. 2, lines 23-32, Abstract). It is inherent that these programs are installed because the computer could not perform the functions (setup/initiation of phone calls) if the programs were not installed already." In Wu, it is inherent that the program that enables setting up/initiating phone calls be installed *already* in the invited participant's remote device otherwise the coordinator would not be able to send a user of a remote device an invitation to participate in a telephone conference call. However, in the present application, a program such as an "Internet information gathering process installed on [a] client" (Specification at p. 18-19) computer may not be inherent to the functionality of the operating system of the client computer or the system of scheduling executions of programs on a plurality of client computers. Accordingly, Appellants assert that nothing in the cited text or other portions of Wu teaches or suggests "installing (set up and initialization) of a first program on the first computer", as alleged in the Final Action.

Furthermore, although the Examiner alleges that Wu teaches "installing of a second program on the second computer, wherein the operating system of the second computer is different from the operating system of the first computer (cross platform)" (Final Action at p. 7), Wu does not teach this feature.

The Examiner relies on column 2, lines 23-32 of Wu which recites:

This situation is further complicated when the teleconferencing system is required to coordinate a cross-platform telephone conference call with terminal devices . . . operating on different types of communication networks. Cross-platform telephone conferencing systems and so-called intelligent agents are available but they generally require dedicated server devices and associated software costing tens of thousands of dollars which would make them unappealing to many small businesses and individual users desiring to use this type of service.

The cited text refers to the different remote devices that can be used to participate in a telephone conference call. However, nothing in the cited text or other portions of Wu, as similarly explained above regarding installing a first program on the first computer, teaches or suggests "installing of a second program on the second computer", as alleged in the Final Action. Wookey does not overcome these deficiencies.

4. *Summary of Arguments*

For the aforementioned reasons, the subject matter of claim 27 is patentable over the combination of Wu and Wookey. For similar reasons, independent claims 33 and 39 are also not rendered obvious by the combination of Wu and Wookey. Furthermore, claims 28, 29, and 32, which depend from claim 27; claims 34, 35, and 38 which depend from claim 33; and claims 40, 41, and 44 which depend from claim 39 are also not rendered obvious over the combination of Wu and Wookey for the same reasons as the independent claims from which they depend, and further in view of their own respective features.

C. *The Combination of Wu, Wookey, and Bowman Does Not Teach Every Feature Recited in Claims 30, 36, and 42*

Appellants assert that claims 30, 36, and 42 are patentable over Wu and Wookey, alone or in any combination, for reasons similar to those set forth above with respect to independent claims 27, 33, and 39, from which they depend, and further in view of their own respective features. Appellants further assert that Bowman does not provide the teachings missing from the combination of Wu and Wookey. Accordingly, claims 30, 36, and 42 are patentable over Wu, Wookey, and Bowman, alone or in any combination.

D. *The Combination of Wu, Wookey, and Bauchot Does Not Teach Every Feature Recited in Claims 31, 37, and 43*

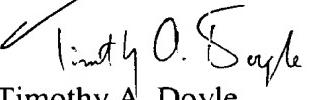
Appellants assert that claims 31, 37, and 44 are patentable over Wu and Wookey, alone or in any combination, for reasons similar to those set forth above with respect to independent claims 27, 33, and 39, from which they depend, and further in view of their own respective features. Appellants further assert that Bauchot does not provide the teachings missing from the combination of Wu and Wookey. Accordingly, claims 31, 37, and 43 are patentable over Wu, Wookey, and Bauchot, alone or in any combination.

E. Conclusion

The subject matter of claims 27-44 is patentable over the applied references because the Examiner has failed to establish a prima facie case of obviousness. Therefore, Appellants respectfully requests that the Board reverse the Examiner's final rejections of these claims under 35 U.S.C. § 103(a) and remand this application for issue.

Respectfully submitted,

STERNE, KESSLER, GOLDSTEIN & FOX P.L.L.C.


Timothy A. Doyle
Attorney for Appellants
Registration No. 51,262

Date: August 17, 2007

1100 New York Avenue, N.W.
Washington, D.C. 20005-3934
(202) 371-2600

VIII. Claims Appendix (37 C.F.R. § 41.37(c)(1)(viii))

27. A computer-based method of scheduling executions of programs on a plurality of computers comprising the steps of, at a scheduling third computer:

- (a) receiving a first notification from a first computer upon the installation of a first program on the first computer;
- (b) receiving a second notification from a second computer upon the installation of a second program on the second computer, wherein the operating system of the second computer is different from the operating system of the first computer;
- (c) updating a master schedule based on the first and the second notifications, wherein the updated master schedule indicates when the first program is to be executed on the first computer and when the second program is to be executed on the second computer; and
- (d) requesting the first computer to execute the first program and requesting the second computer to execute the second program according to the updated master schedule.

28. The method of claim 27, wherein step (c) further comprises indicating in the master schedule that the execution of the first program depends on a condition; and step (d) further comprises requesting the first computer to execute the first program upon the occurrence of the condition.

29. The method of claim 27, wherein step (c) further comprises indicating in the updated master schedule that an execution of the second program depends on an execution of the first program meeting a criterion; and step (d) comprises:

- (1) requesting the first computer to execute the first program;

(2) receiving a result from the first computer, wherein the result is based on the execution of the first program; and

(3) requesting the second computer to execute the second program if the result meets the criterion.

30. The method of claim 27, wherein step (d) further comprises:

(1) monitoring the load of the first computer;

(2) monitoring the load of the second computer; and

(3) adjusting the updated master schedule based on the load of the first computer and the load of the second computer.

31. The method of claim 27, wherein step (c) further comprises assigning a first priority to the first program and a second priority to the second program; and further comprising adjusting the updated master schedule based on the first priority and the second priority.

32. The method of claim 27, wherein step (c) further comprises accepting at least one command from a user to define the updated master schedule.

33. A system for scheduling executions of programs on a plurality of computers comprising of a scheduling third computer networked to a first computer and a second computer, wherein the scheduling third computer comprises:

receiving means for receiving a first notification from a first computer upon the installation of a first program on the first computer;

receiving means for receiving a second notification from a second computer upon the installation of a second program on the second computer, wherein the operating system of the second computer is different from the operating system of the first computer;

updating means for updating a master schedule based on the first and the second notifications, wherein the updated master schedule indicates when the first program is to be executed on the first computer and when the second program is to be executed on the second computer; and

requesting means for requesting the first computer to execute the first program and requesting the second computer to execute the second program according to the updated master schedule.

34. The system of claim 33, wherein the updating means further comprises indicating means for indicating in the updated master schedule that the execution of the first program depends on a condition; and the requesting means further comprises requesting means for requesting the first computer to execute the first program upon the occurrence of the condition.

35. The system of claim 33, wherein the updating means further comprises indicating means for indicating in the updated master schedule that an execution of the second program depends on an execution of the first program meeting a criterion; and the requesting means comprises:

requesting means for requesting the first computer to execute the first program;

receiving means for receiving a result from the first computer, wherein the result is based on the execution of the first program; and

requesting means for requesting the second computer to execute the second program if the result meets the criterion.

36. The system of claim 33, wherein the requesting means further comprises:
 - monitoring means for monitoring the load of the first computer;
 - monitoring means for monitoring the load of the second computer; and
 - adjusting means for adjusting the updated master schedule based on the load of the first computer and the load of the second computer.
37. The system of claim 33, wherein the updating means further comprises assigning means for assigning a first priority to the first program and a second priority to the second program; and the requesting means further comprises adjusting means for adjusting the updated master schedule based on the first priority and the second priority.
38. The system of claim 33, wherein the updating means further comprises accepting means for accepting at least one command from a user to define the updated master schedule.
39. A computer program product comprising a tangible computer useable storage having computer readable program code means embedded in the storage for causing an application program to execute on a scheduling third computer that schedules executions of programs on a plurality of computers comprising:
 - a first computer readable program code means for receiving a first notification from a first computer upon the installation of a first program on the first computer;
 - a second computer readable program code means for receiving a second notification from a second computer upon the installation of a second program on the second computer,

wherein the operating system of the second computer is different from the operating system of the first computer;

a third computer readable program code means for updating a master schedule based on the first and the second notifications, wherein the updated master schedule indicates when the first program is to be executed on the first computer and when the second program is to be executed on the second computer; and

a fourth computer readable program code means for requesting the first computer to execute the first program and requesting the second computer to execute the second program according to the updated master schedule.

40. The method computer program product of claim 39, wherein the third computer readable program code means further comprises a fifth computer readable program code means for indicating in the updated master schedule that the execution of the first program depends on a condition; and the fourth computer readable program code means further comprises a sixth computer readable program code means for requesting the first computer to execute the first program upon the occurrence of the condition.

41. The method computer program product of claim 39, wherein the third computer readable program code means further comprises a fifth computer readable program code means for indicating in the updated master schedule that an execution of the second program depends on an execution of the first program meeting a criterion; and the fourth computer readable program code means further comprises:

a sixth computer readable program code means for requesting the first computer to execute the first program;

a seventh computer readable program code means for receiving a result from the first computer, wherein the result is based on the execution of the first program; and

an eighth computer readable program code means for requesting the second computer to execute the second program if the result meets the criterion.

42. The method computer program product of claim 39, wherein the fourth computer readable program code means further comprises:

a fifth computer readable program code means for monitoring the load of the first computer;

a sixth computer readable program code means for monitoring the load of the second computer; and

a seventh computer readable program code means for adjusting the updated master schedule based on the load of the first computer and the load of the second computer.

43. The method computer program product of claim 39, wherein the third computer readable program code means further comprises a fifth computer readable program code means for assigning a first priority to the first program and a second priority to the second program; and the fourth computer readable program code means further comprises of a sixth computer readable program code means for adjusting the updated master schedule based on the first priority and the second priority.

44. The method computer program product of claim 39, wherein the third computer readable program code means further comprises of a fifth computer readable program code means for accepting at least one command from a user to define the updated master schedule.

IX. Evidence Appendix (37 C.F.R. § 41.37(c)(1)(ix))

To the best of the knowledge of Appellants, Appellants' legal representative, and Appellants' assignee, there has been no evidence submitted pursuant to 37 C.F.R. §§ 1.130, 1.131, or 1.132, nor has any other evidence been entered in the record by the Examiner and relied upon in this Appeal Brief.

X. Related Proceedings Appendix (37 C.F.R. § 41.37(c)(1)(x))

To the best of the knowledge of Appellants, Appellants' legal representative, and Appellants' assignee, there are no other appeals or interferences which will directly affect or be directly affected or have a bearing on a decision by the Board of Patent Appeals and Interferences in the pending appeal.

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